

**Staff
Summary
Report**



**To: Mayor & City Council
Through: City Manager**

**Agenda Item Number 32
Meeting Date 7/19/01**

SUBJECT: Wildlife Management Contract

PREPARED BY: Chris Anaradian, Rio Salado Manager (x2204)

REVIEWED BY: Jan Schaefer, Economic Development Director (x8036)

BRIEF: Authorize the Mayor to enter into an Intergovernmental Agreement with the U.S. Department of Agriculture, Wildlife Services Division for the purposes of extending an existing contract to provide wildlife management assistance for the Rio Salado project.

COMMENTS: **RIO SALADO (0112-07-03)** Authorize the Mayor to enter into an Intergovernmental Agreement with the U.S. Department of Agriculture, Wildlife Services Division for the purposes of extending an existing contract to provide wildlife management assistance for the Rio Salado project.

Document Name: (20010719rioca01) Supporting Documents: Yes

SUMMARY: In the later part of 1999, the City was informed by the U.S. Corps of Engineers that the Federal habitat restoration projects within Tempe and Phoenix were being held up based on issues raised by the Federal Aviation Administration. The primary concern was based on the lack of a comprehensive wildlife management plan for Sky Harbor Airport. While Tempe had a wildlife management plan in place, the FAA requested that the cities work together to safely manage the Salt River corridor. The idea of partnering on the management of wildlife issues directly relating to aviation safety is very appealing. For a relatively nominal amount (\$25,000/year) Tempe participates in daily monitoring of all areas within the five mile radius of the airport and has direct access to Federal resources in the event that a hazardous or other special situation is identified.

Based on risk management issues, a continued desire to advance the federal restoration project and a spirit of cooperation with our neighbor city, the Council entered into an Intergovernmental Agreement with the U.S. Department of Agriculture, Wildlife Services Division in December of 1999. The term was limited to a six-month period, which ended on June 30, 2000. Subsequently, a one-year agreement was signed for the period of July 2000 through June 2001. Both agreements provide a Wildlife Biologist, trained and certified in wildlife damage management at airports, to assist staff in

implementing operational controls to monitor and reduce wildlife hazards within the Rio Salado Project. The City of Phoenix also entered into these agreements

The request before the Council is to renew the agreement for another twelve (12) month period, concurrent with the City's fiscal budget year, beginning on July 1, 2001. All conditions within the previous agreement remain intact. The agreement calls for a quarterly monitoring report to be submitted to the City and follow-up meetings as necessary.

Wildlife Services will furnish a Wildlife Biologist to implement operational controls to monitor and reduce Wildlife Aircraft Strike Hazards around Town Lake. Wildlife Services staff also provides media relations related to wildlife issues and staff training for additional wildlife monitoring of the area. They have assisted in the safe relocation of non-native species, and have provided valuable information on the habits of animals in the Rio Salado.

Staff believes that the continued retention of a wildlife biologist trained specifically in identifying aviation hazards, provides the greatest degree of safety to the public while supporting the restoration of wildlife habitat in the Salt River. The Tempe share of the project cost is \$25,000 annually to include the cost of salary, benefits, travel, transportation, equipment, supplies, and administrative overhead. A remaining \$50,000 is funded equally between the City of Phoenix and the Federal Government.

FISCAL NOTE: Sufficient funds required for this program are available within the Rio Salado Consultant Services Account 65-926435

RECOMMENDATION: That the City Council authorize the Mayor to renew an Intergovernmental Agreement with the U.S. Department of Agriculture, Wildlife Services Division to provide a wildlife biologist, trained in aviation hazards to assist the staff in continuing a wildlife management program for Rio Salado. Term of the agreement to be one year beginning on July 1, 2001.

INTERGOVERNMENTAL AGREEMENT No. _____

This Intergovernmental Agreement (“**Agreement**”) is entered into pursuant to Arizona Revised Statutes (“**A.R.S.**”) Section 11-952 between the City of Tempe (“**City**”) and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services (“**WS**”).

RECITALS

A. WS is authorized by the Animal Damage Control Act of March 2, 1931, [7 U.S.C. 426-426(b)], to provide assistance to and cooperate with states, individuals, public and private agencies, organizations, and institutions in the control of predatory animals injurious to agriculture, animal husbandry, and wild game animals; and to suppress wildlife diseases such as rabies. In addition, WS is further authorized under the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1988 (P.L. 100-202), to manage nuisance mammals and bird species that are reservoirs for zoonotic diseases, and to deposit any monies collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for wildlife damage management activities. WS is also authorized under the terms of the Master Project Agreement with the Arizona Department of Agriculture, Animal Services Division, to enter into supplemental agreements with Arizona counties, cities, agriculture, irrigation, trade, and sportsmen’s associations, industries, other state and federal agencies, Native American Tribes, and individuals.

B. The City is empowered by the City Charter, Chapter II, Section 2(i), to enter into this Agreement and has by Resolution No. 99.68 resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

C. The City is empowered to enter into this Agreement pursuant to A.R.S. § 11-952.

D. The City desires to obtain, and WS desires to provide, the consultant services described herein for the Town Lake area in Tempe, Arizona.

NOW, THEREFORE, the parties agree as follows:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to undertake a program for the management of damage caused by wild or feral mammals or birds on properties under the City's control or jurisdiction. The WS State Director will coordinate efforts to manage aircraft hazards caused by wildlife through employment of a Wildlife Biologist assigned to the project. A Wildlife Biologist, certified in airport operations, will implement an integrated wildlife hazard management plan utilizing all available nonlethal and lethal management techniques to reduce threats to air safety.

2. DESCRIPTION OF SERVICES

WS will furnish a Wildlife Biologist, trained and certified in wildlife hazard management at airports, to implement operational controls to monitor and reduce Wildlife Aircraft Strike Hazards around Town Lake. WS also agrees to serve as liaison between the news media and animal rights activists.

3. TERM OF AGREEMENT

This Agreement will constitute the Work/Budget Plan for the period of July 1, 2000, through June 30, 2001.

4. PAYMENT OF AMOUNT

A. The City agrees to pay for actual costs incurred by WS in providing direct program support to conduct activities delineated in the Description of Services, not to exceed \$25,000. Costs will include salary, benefits, travel, transportation, equipment, supplies, and administrative overhead.

B. A Statement of Services will be prepared by WS and sent to the City quarterly. Payment will be made within 30 days of receipt of each billing.

C. In accordance with the Debt Collection Improvement Act (DCIA) of 1996, bills issued by WS are due and payable within 30 days of receipt. The DCIA requires that all debts older than 120 days be forwarded to debt collection centers or commercial collection agencies for more aggressive action. Debtors have the option to verify, challenge, and compromise claims, and have access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

5. REPORTS

WS will provide the City with quarterly reports covering the previous quarter's activities. All reports, information data, plans and other materials prepared by WS in performance of this Agreement shall be acknowledged as having been funded in part by the City. WS shall retain title and the City shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all information prepared under this Agreement.

6. AVAILABILITY OF FUNDS

This Agreement shall be contingent upon the availability of funds and manpower appropriated by the Congress of the United States, the State of Arizona, and funds available to the City for the purposes of this Agreement.

7. SEPARATE AGREEMENTS

Nothing in this Agreement shall prevent any other state, agency, organization, or individual from entering into separate agreements with WS for the purpose of wildlife damage management.

8. CONGRESS

Pursuant to Section 22, Title 41, United States Code of Federal Regulations, no member of or delegate to Congress shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

9. WILDLIFE DAMAGE MANAGEMENT ACTIVITIES

All wildlife damage management activities will be conducted in accordance with applicable Federal, State and local laws and regulations.

10. TERMINATION

Each party shall have the right to terminate this Agreement by mailing the other party written notice of termination by certified mail, return receipt requested, at least sixty (60) days prior to the effective date of said termination. In the event this Agreement is canceled by the City, the City shall remain responsible for payment to WS for all work performed through the date of termination.

11. ASSIGNMENT AND DELEGATION

Neither party may assign any rights or obligations hereunder without the express, written, prior consent of the other party.

12. CONFLICT OF INTEREST

The parties acknowledge that this Agreement is subject to cancellation provisions pursuant to A.R.S. § 38-511, the provisions of which are incorporated.

13. INSPECTION AND AUDIT

All books, accounts, reports, files and other records relating to this Agreement shall be kept for five (5) years after termination of this Agreement, and shall be subject at all times to inspection and audit by either party. Such records shall be produced at the requesting party's principal office within a reasonable time after their request.

14. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties hereto. There are no representations or provisions other than those contained herein. Any amendment or modification of this Agreement shall be made only in writing and signed by both parties.

15. INVALIDITY OF PART OF THIS AGREEMENT

The parties agree that should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the parties.

16. INDEMNITY PROVISION

WS will hold the City harmless from any liability arising from the negligent act or omission of a government officer or employee acting within the scope of his or her employment to the extent compensation is available pursuant to the Federal Tort Claims Act (FTCA), 28 U.S.C. 2761 et.seq., except to the extent that aforesaid liability arises from the negligent act or omissions of the City, its employees, agents or subcontractors(s). Such relief shall be provided pursuant to the procedures set forth in the FTCA and applicable regulations.

20. GOVERNING LAW

This Agreement shall be construed under Federal and State law and shall incorporate by reference all laws governing the interagency agreements and mandatory contract provisions required by statute.

21. AUTHORITY

This Agreement is in proper legal form and is within the powers and authority granted under the laws of the State of Arizona to those parties represented by undersigned legal counsel.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) shown below.

CITY OF TEMPE

By: _____
Mayor

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

U.S. DEPARTMENT OF AGRICULTURE,
APHIS, WILDLIFE SERVICES

By: _____
State Director

Date: _____

By: _____
Director, Western Region

Date: _____